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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

ENGLISH, PETER C

ART UNIT PAPER NUMBER

3616

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,472

Applicant(s)

HELLUMS, JAMES R.

Examiner

Peter C. English

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20030723.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.



DETAILED ACTION

Specification

1. The specification is objected to because:
At page 5, line 1, "22" should be "28".
At page 5, line 6, "44" should be "32, 34".
Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, at line 4, "the leaf springs" lacks proper antecedent basis. The examiner suggests: at line 4, delete "the".

In claim 3, at line 2, "their tops" lacks proper antecedent basis. The examiner suggests: at line 2, change "their tops" to "tops thereof".

In claim 4, "said base portion" (line 1) and "said crosspiece" (line 2) are indefinite because more than one base portion and more than one crosspiece have been previously recited. Note that claim 3 defines "each" of the brackets as having a base portion and a crosspiece. The examiner suggests: in claim 4, at line 1, change "said base portion" to "each of said base portions"; and in claim 4, at line 2, insert "thereof" after "crosspiece".

In claim 4, at line 3, "the longitudinal axis" lacks proper antecedent basis. The examiner suggests: at line 3, change "the" to "a".

In claim 5, at line 4, "the leaf springs" lacks proper antecedent basis. The examiner suggests: at line 4, delete "the".

In claim 5, at line 7, "their tops" lacks proper antecedent basis. The examiner suggests: at line 7, change "their tops" to "tops thereof".

In claim 7, "said base portion" (line 1) and "said crosspiece" (line 2) are indefinite because more than one base portion and more than one crosspiece have been previously recited. Note that claim 5 defines "each" of the brackets as having a base portion and a crosspiece. The

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examiner suggests: in claim 7, at line 1, change “said base portion” to “each of said base portions”; and in claim 7, at line 2, insert “thereof” after “crosspiece”.

In claim 7, at line 3, “the longitudinal axis” lacks proper antecedent basis. The examiner suggests: at line 3, change “the” to “a”.

In claim 8, at line 8, “the leaf springs” lacks proper antecedent basis. The examiner suggests: at line 8, delete “the”.

In claim 8, at line 11, “their tops” lacks proper antecedent basis. The examiner suggests: at line 11, change “their tops” to “tops thereof”.

Allowable Subject Matter

3. Claims 1-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

4. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach a spare wheel assembly as defined in claims 1-8 including a wheel secured to one end of a frame, and a pair of mounting brackets pivotally secured to the frame, with the brackets being adapted for attachment to leaf springs of a trailer. The Helseth reference (US 1,372,813) discloses a wheel secured to one end of a frame, and a pair of mounting brackets pivotally secured to the frame. However, the mounting brackets of Helseth cannot be considered to be adapted for attachment to leaf springs of a trailer because: (1) the brackets of Helseth are secured to a rigid axle housing which is not analogous with a resilient leaf spring; (2) the brackets correspond in shape to the axle housing and do not correspond in shape to a leaf spring; and (3) attachment of Helseth’s device to conventional leaf springs (*see the leaf springs in the Brewster, Carter, Kirschbaum and Norcia et al. references*) would prevent Helseth’s device from functioning properly, i.e., the wheel would be oriented transversely instead of longitudinally with respect to the vehicle, and the resilient leaf springs would not provide the rigid support required for the proper functioning of Helseth’s device.

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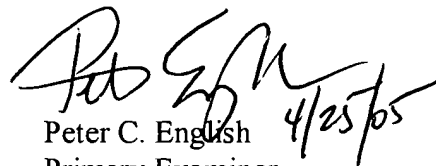
Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carter, Kirschbaum and Norcia et al. teach spare/auxiliary wheels secured to leaf springs. Helseth and Massey teach spare wheels secured to frames that are mounted to vehicle structure by brackets.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. English whose telephone number is 571-272-6671. The examiner can normally be reached on Monday through Thursday (7:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Peter C. English', with a date '4/25/05' written to the right of the signature.

Peter C. English
Primary Examiner
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pe
25 April 2005